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09/973,146	10/08/2001	Joseph Mosher	G&C 119.10-US-01	5595
22462 7590 09/08/2008 GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045				
EXAMINER				
USTARIS, JOSEPH G				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/973,146

Applicant(s)

MOSHER ET AL.

Examiner

JOSEPH G. USTARIS

Art Unit

2623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed February 14, 2008 have been fully considered but they are not persuasive.

Applicant argues with respect to claim 1 that Hoffman does not disclose allowing the user to select one of said displayed available multimedia content offering for delivery to said device. However, reading the claims in the broadest sense, Hoffman does disclose that limitation. Hoffman discloses that the system waits for a user selection after the search results are displayed (See Fig. 7, step 710). Therefore, the system allows the user to select one of said displayed available multimedia content offering for delivery to said device (e.g. selecting a program that was displayed on the search results page (See Figs. 9)).

Applicant further argues with respect to claim 1 that Hoffman does not describe the functionality to identify and launch a program from the menu or search display. It is noted that these limitations upon which applicant relies are not clearly recited in the rejected claim(s). Hoffman does allow a user to make a selection (See Fig. 7, step 710). The user must input a selection (e.g. a program listing that was displayed in the search results) into the system in order to tune into a program offered on either TELCO, Cable, or DBS.

Applicant also argues with respect to claim 1 that Hoffman does not disclose multiple axis framework. However, reading the claims in the broadest sense, Hoffman does disclose that limitation in the claims. Hoffman discloses developing of an

integrated Database with a data structure, as shown in Fig. 6, based on the receiving data structure (see Fig. 5). The integrated database serves as the multiple axis framework (e.g. modes: TELCO, Cable, and DBS; provider: HBO and Showtime; and Themes: comedy and Drama) (See Figs. 5 and 6) used to generate a menu or search results as shown in Fig. 9. Hoffman also discloses allowing the user to specify at least one option (e.g. comedies) for at least one of said independent axes (e.g. theme) by use of an interface (See col. 9 lines 6-11). Applicant points out that Hoffman does not describe how data for searches are to be input by the user. However, Hoffman does disclose that the user can use cursor/display interface or keyboard to perform searches (See col. 9 lines 6-11).

Applicant also argues with respect to claims 5 and 6 that Hoffman does not disclose that the three or more independent axes comprises three axes and that the three axes comprise: mode, provider, and theme axes. However, reading the claims in the broadest sense, Hoffman does disclose that limitation in the claims. Hoffman discloses developing of an integrated Database with a data structure, as shown in Fig. 6, based on the receiving data structure (see Fig. 5). The integrated database serves as the multiple axis framework that has three axes (e.g. service, programmer, and program type/subtype) and that the three axes are mode, provider, and theme (e.g. service: TELCO, Cable, and DBS; programmer: HBO and Showtime; and program type/subtype: comedy and Drama) (See Figs. 5 and 6; col. 6 lines 32-65).

Applicant argues with respect to claim 7 that Hoffman does not disclose the step of presenting different layers of said multiple axis framework to the user. However,

reading the claims in the broadest sense, Hoffman does disclose that limitation in the claims. Hoffman discloses presenting different layers of said multiple axis framework (e.g. presenting the CATV, TELCOS, and DBS layers of the mode/service axis or presenting the HBO and PRISM layers of the provider/programmer axis) to the user (See Figs. 9; col. 9 lines 12-21).

Applicant further argues with respect to claim 10 that Nishikawa system is completely incompatible and unrelated to the system of Hoffman. However, the examiner respectfully disagrees. Hoffman and Nishikawa both describe a system that allows the user to select programming to view (See Hoffman Figs. 9 and Nishikawa Fig. 11). Furthermore, Hoffman discloses that the CEBus is compatible with various other networks (See Figs. 3-4). Hoffman discloses that the CEBus network is integrated with the CATV network, TELCO network, and DBS network. Therefore, one of ordinary skill would recognize that the switching and converting features disclosed by Nishikawa could be used by the system of Hoffman because the CEBus disclosed by Hoffman is compatible with various other networks and that Hoffman and Nishikawa both describe a system that allows the user to select programming to view.

Applicant also argues with respect to claim 11 that Parry is unrelated with the invention. However, the examiner would like to point out that Nishikawa discloses the used of a hard drive and storing data within it (See Fig. 2, 228). Parry discloses the details of how to read data off the hard drive. Therefore, Parry is related to Nishikawa and that the combination of Hoffman in view of Nishikawa and Parry are related to applicant's invention.

Applicant further argues with respect to claims 15-16 that Litteral system is completely incompatible to the system of Hoffman. However, the examiner respectfully disagrees. Hoffman discloses that the CEBus is compatible with various other networks (See Figs. 3-4). Hoffman discloses that the CEBus network is integrated with the CATV network, TELCO network, and DBS network. Therefore, one of ordinary skill would recognize that the PSTN and ISDN networks disclosed by Litteral could be used by the system of Hoffman because the CEBus disclosed by Hoffman is compatible with various other networks.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9, and 17-19 are rejected under 35 U.S.C. 102(b) as being unpatentable by Hoffmann (US 5883677).

Claim 1, Hoffmann discloses a method of displaying available multimedia content offerings and managing access to them, via a device, the available multimedia content

offerings being accessible over a convergence system of networks (see Fig. 4A), the method comprising the steps of:

“Defining a multiple axis framework, the multiple axis framework comprising three or more independent axes, and each of the independent axes (mode; Provider and theme) being defined by a list of available options (mode:CATV/Internet; Provider: CNN, MSNBC and theme: movie, News)” reads on developing of an integrated Database with a data structure, as shown in Fig. 6, based on the receiving data structure (see Fig. 5) of each service provider so to generate a menu in using the information in the merged/integrated database 424;

“correlating each of the available multimedia content offerings with a specific option (i.e., CATV) for each independent axes (mode; Provider and theme) in the multiple axis framework, and accordingly, locating each of the available multimedia content offerings with the multiple axis framework” reads on the system generates a search result based on a specific request from user in using the information from the merged/integrated Database 424 (Col. 9, lines 9-11);

displaying all available multimedia content offerings corresponding to options (i.e., theme) identified by a user, with respect to one or more of the independent axes (see Fig. 9A-B); and

“allowing the user to select one of the displayed available multimedia content offerings for delivery to the device” reads on the user inherently navigates through the menu and selects one of the program for viewing, as desired;

wherein all multimedia content offerings that are available over the convergent system of networks may be displayed and selected for delivery by specifying at least one option for at least one of the independent axes, independent of what options might be assigned to a given multimedia content offering for the other axes (see Fig. 9A-B; Col. 8, lines 66-Col. 9, lines 11); and

wherein if the user does not specify the delivery medium then all available multimedia content offerings will be displayed regardless of their respective media for delivery (see Fig. 9B; Col. 7, lines 54-58 and Col. 8, lines 46-50).

Claim 2, wherein the available multimedia content offerings include services provided via various communication networks (Col. 3, lines 38-45).

Claim 3, comprising the step of providing integrated access to make content planes transparent to user (Col. 6, lines 45-65).

Claim 4, wherein users do not have to shift paradigms, or be aware of which plane they are on and where they want to go, in order to change content selection (Col. 6, lines 57-65).

Claims 5 and 6, wherein three or more independent axes comprise three axes, wherein the three axes comprise: mode, provider and theme axes (for example: service provider, theme and origin, i.e., Telco/CATV; Col. 6, lines 32-65).

Claim 7, comprising the step of presenting different layers of the multiple axis frameworks to the user (Col. 9, lines 12-21).

Claim 8, wherein the step of presenting comprises the step of presenting different layers of the multiple axis frameworks to the user via a GUI (see Fig. 9A-B).

Claim 9, wherein the ordering of the layers may be varied (Col. 6, lines 50-57).

Claim 17, Hoffmann further discloses wherein the various communication networks include a broadcast network (CATV see Fig. 1).

Claim 18, Hoffmann teaches a multimedia server (see Fig. 4A, el. 410) for managing access to available multimedia content offerings accessible over a convergence system of networks, comprising:

Hoffman also teaches the means for defining the multiple axis framework comprising three or more independent axes (mode, theme, and provider axis), and each of the independent axes being defined by a list of available options, as discussed in claim 1.

"means for correlating each of the available multimedia content offerings with a specific option for each of the independent axes in the multiple axis framework, and accordingly, locating each of the available multimedia content offerings within the multiple axis framework" reads on developing of an integrated Database with a data structure, as shown in Fig. 6, based on the receiving data structure (see Fig. 5) of each service provider so to generate a menu in using the information in the merged/integrated database 424;

"Means for displaying all available multimedia content offerings corresponding to options identified by a user with respect to one or more of the independent axes" (see Fig. 9A-B);

"Means for allowing the user to select one of the displayed available multimedia content offerings for delivery to the device" reads on the user inherently selects one of the program for viewing from the menu, as desired;

"Wherein all multimedia content offerings that are available over the convergent system of networks may be displayed and selected for delivery by specifying at least one option for at least one of the independent axes, independent of what options might be assigned to a given multimedia content offering for the other axes" (see Fig. 9A-B; Col. 8, lines 66-Col. 9, lines 11); and

Wherein if the user does not specify the delivery medium then all available multimedia content offering will be displayed regardless of their respective media for delivery" (see Fig. 9B; Col. 7, lines 54-58 and Col. 8, lines 46-50).

As to claim 19, see rejection of claim 1 for the corresponding limitations and note that the End User terminal is Display Unit (screen not shown) in Figure 4A and the service provider is receiver 410 in Figure 4A. The receiver is a service provider because it provides the user with information via the end user terminal (screen/display unit).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann (US 5883677) in view of Nishikawa et al. (US 6481010).

Claim 10, Hoffmann does not clearly disclose the steps of: responding to a desired one of the multimedia content offerings being selected by the user, by Switching the input from the selected multimedia content offering to an output; and Converting the format of the selected service multimedia content offering as required to accommodate the output.

Nishikawa teaches that the DSS/WebTV receiver 12 in Figure 1 in which user simply selects an icon from the GUI and the DSS/WebTV receiver can retrieve information from different sources (Column 10, lines 63 - 67, Column 11, lines 1 - 13 and Column 12, lines 31 - 32) by switching the input of said selected service to an output (Column 12, line 33), and converting the format of said selected service as required to suit said output (Column 12, lines 33 - 38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman with Nishikawa teaching so Hoffman device able to display of DSS programs, Internet websites, and local broadcast channels in a seamless fashion, as suggested by Nishikawa (Column 1, lines 59 - 65).

Claim 12, "wherein the step of converting comprises the steps of: converting the format of the selected multimedia content offering to an intermediate format; and subsequently converting the format of the selected multimedia content offering from the intermediate format as required to accommodate the output" is analyzed with respect to

claim 10 and note that the converting to an intermediate format is already discussed in claim 10.

Claim 13, "further comprising the step of handling the logistics of billing and monitoring usage of services in an integrated manner" is analyzed with respect claim 12 and note that the user in Nishikawa is able to purchase a program via the TV planner icon (Column 13, lines 26 - 28) and when the user selects the purchase icon, the user is presented with the cost, data, and time of the purchased program. This reads on the step of handling the logistics of billing. Moreover, the user in Nishikawa is also able to monitor the usage of service by reviewing purchases made by selecting the review purchase icon (Nishikawa Column 13, lines 36 - 40) thereby the receiver 12 in Fig. 1 processes the two services mentioned in an integrated manner.

Claim 14, Hoffmann does not clearly disclose the various communication networks include an Internet network.

Nishikawa teaches wherein said various communication networks include an Internet network (Column 3, lines 50 - 51). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an Internet network in Hoffman's system, as taught by Nishikawa so to provide to user an addition source of information to receive.

6. Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann (US 5883677) in view of Nishikawa et al. (US 6481010) as applied to claim 10 above, and further in view of Parry (US 5710941).

Claim 11, As discussed in claim 10, Hoffmann in view of Nishikawa teaches data in the intermediate format is read from a hard disk drive and converted to an output.

Hoffmann in view of Nishikawa fails to teach wherein the step of converting is performed using a software driver with a common API.

Parry teaches a method of reading data from a hard disk drive via an application-programming interface (API) of the operating system (Column 6, lines 66 - 67, Column 7, lines 1 - 10) in which the data requested is being converted from a hard drive format to an output format accessible by the file system through the protected hard disk driver (Column 7, lines 16 - 22, 28 - 32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of accessing a hard disk drive of Hoffmann in view of Nishikawa using the method of accessing the hard disk drive using protected mode hard disk driver of Parry via an API, for the purpose of yielding better hard disk drive performance and achieving higher data transfers (Column 7, lines 40 - 54).

7. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffmann (US 5883677) in view of Litteral et al. (US 5247347).

Claim 15, Hoffmann does not clearly disclose wherein the various communication networks include a VOD service.

Litteral et al. teaches a video on demand service platform that is transmitted over public switched telephone network (PSTN) by using an ADSL interface unit (Column 4, lines 47 - 49, Column 7, lines 27 - 29, 65 - 66). Therefore, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify Hoffmann to use the ADSL interface for providing video on demand service over PSTN of Litteral, for the purpose of using existing components (lines) of the PSTN, thereby saving cost (Col. 7, lines 28).

Claim 16, Hoffmann discloses a Telco network (see Fig. 1) and teaches all the limitations corresponding to claim 2.

Hoffmann does not clearly disclose the Telco network include a public switched telephone network (PSTN). However, the usage of a PSTN and the motivation for using PSTN has already been discussed in claim 15.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH G. USTARIS whose telephone number is (571)272-7383. The examiner can normally be reached on M-F 7:30-5 PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph G Ustaris/
Primary Examiner, Art Unit 2623